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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,374	09/24/2008	Izidor Brajnovic	NOBELB.24INP	3882

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KNOBBE MARTENS OLSON & BEAR LLP  
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FOURTEENTH FLOOR  
IRVINE, CA 92614

EXAMINER
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WILSON, JOHN J

ART UNIT	PAPER NUMBER
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3732

NOTIFICATION DATE	DELIVERY MODE
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03/24/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/582,374	<b>Applicant(s)</b> BRAJNOVIC, IZIDOR	
	<b>Examiner</b> JOHN J. WILSON	<b>Art Unit</b> 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2011 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karmaker et al (6827576) in view of Kobayashi et al (5759029). Karmaker shows a dental component 10 having a darker fiber 52, Fig. 12, covered by a lighter fiber 54, where the dark fiber 52 can be carbon fibers which are black or brown and are covered by additional fibers 54 which can be white, column 3, lines 46-60. It is noted that Karmaker does not specifically state that 52 comprises carbon fiber, however, Karmaker teaches that 52 is of a darker color, that it is covered by a lighter color, for example white, and that carbon fiber can be used and exhibits a darker color, black or brown. One of ordinary skill in the art would understand and find obvious to use the darker carbon fiber for element 52. Karmaker also shows the fibers being held in a hardenable substance, a polymeric matrix, column 4, lines 19-25. Karmaker teaches that the fibers used can be colored with pigment so that a single fiber can be used, however, Karmaker also teaches that all of the fibers can be inherently colored, column 1, line 51, and in the case of the embodiment of Fig. 12, that the post is molded from the pigmented (or inherently colored) and non-pigmented fibers and cured, column 4, lines 1-3. It is held that the taught alternative of using all inherently colored fibers and of using inherently colored and non-pigmented fibers implies the use of at least two different types of fibers because if the inherent color fiber was

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used with non-pigmented fibers, then there would not be two different colors as taught. In view of this, it is held that Karmaker at least obviously suggests to one of ordinary skill in the art, the alternative of using different types of fibers to obtain the desired coloring. Karmaker teaches that the fibers that can be used include glass fibers, column 6, lines 5-8, however, Karmaker does not show using aluminum oxide fibers. Kobayashi teaches that it is known in the dental arts that glass fibers and alumina fibers are equivalent reinforcing agents that can have a white color, column 1, lines 50-54. It would be obvious to one of ordinary skill in the art to modify Karmaker to include the use of alumina fibers in order to make use of art known reinforcing fibers that can have the desired color. As to claim 7, Karmaker teaches using a lighter color, the specific color used would have been obvious to the skilled artisan in order to improve aesthetics. As to claim 8, to match moisture absorbency would have been obvious to one of ordinary skill in the art in order to resist the oral environment. As to claim 9, the relative thickness of the additional fiber material with respect to the component is an obvious matter of choice in the size of a known element to the skilled artisan.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Karmaker et al (6827576) in view of Kobayashi et al (5759029) as applied above, and further in view of Bachmann et al (6224377). Karmaker further teaches using polyaramid fibers, however, does not state that the polyaramid fibers are para-aramid fibers. Bachmann teaches that para-aramid (Kevlar) fibers are equivalent reinforcing fibers used for a dental post. It would be further obvious to modify the above combination to include para-aramid fibers as taught by Bachmann in order to better reinforce the post.

Claims 12-14 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karmaker et al (6827576) in view of Bachmann et al (6224377). Karmaker shows a dental component 10 having a darker fiber 52, Fig. 12, covered by a lighter fiber 54, where the dark fiber 52 can be carbon fibers which are black or brown and are covered by additional fibers 54 which can be white, column 3, lines 46-60. It is noted that Karmaker does not specifically state that 52 comprises carbon fiber, however, Karmaker teaches that 52 is of a darker color, that it is covered by a lighter color, for example white, and that carbon fiber can be used and exhibits a darker color, black or brown. One of ordinary skill in the art would understand and find obvious to use the darker carbon fiber for element 52. Karmaker also shows the fibers being held in a hardenable substance, a polymeric matrix, column 4, lines 19-25. Karmaker teaches that the fibers used can be colored with pigment so that a single fiber can be used, however, Karmaker also teaches that all of the fibers can be inherently colored, column 1, line 51, and in the case of the embodiment of Fig. 12, that the post is molded from the pigmented (or inherently colored) and non-pigmented fibers and cured, column 4, lines 1-3. It is held that the taught alternative of using all inherently colored fibers and of using inherently colored and non-pigmented fibers implies the use of at least two different types of fibers because if the inherent color fiber was used with non-pigmented fibers, then there would not be two different colors as taught. In view of this, it is held that Karmaker at least obviously suggests to one of ordinary skill in the art, the alternative of using different types of fibers to obtain the desired coloring. Karmaker teaches that the fibers that can be used include glass fibers and polyaramid fibers, column 6, lines 5-8, however, Karmaker does not show using para-aramid fibers. Bachmann teaches that para-aramid

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(Kevlar) fibers are equivalent reinforcing fibers to that of glass fibers and shows the fibers being used for a dental post. It would be further obvious to modify Karmaker to include para-aramid fibers as taught by Bachmann in order to better reinforce the post. As to claim 18, Karmaker teaches using a lighter color, the specific color used would have been obvious to the skilled artisan in order to improve aesthetics. As to claim 19, to match moisture absorbency would have been obvious to one of ordinary skill in the art in order to resist the oral environment. As to claim 20, the relative thickness of the additional fiber material with respect to the component is an obvious matter of choice in the size of a known element to the skilled artisan.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Karmaker et al (6827576) in view of Bachmann et al (6224377) as applied to claim 12 above and further in view of Kobayashi et al (5759029). The above combination does not show using aluminum oxide fibers. Kobayashi teaches that it is known in the dental arts that glass fibers and alumina fibers are equivalent reinforcing agents that can have a white color, column 1, lines 50-54. It would be obvious to one of ordinary skill in the art to modify the above combination to include the use of alumina fibers in order to make use of art known reinforcing fibers that can have the desired color.

### **Drawings**

The drawings filed January 20, 2011 have been found to be acceptable by the examiner.

### **Response to Arguments**

Applicant's arguments filed January 20, 2011 have been fully considered but they are not persuasive. Applicant argues that Karmaker teaches the use of only a single fiber, and as such, does not meet the two different fibers being claimed. This argument is disagreed with because it is held that Karmaker does suggest the alternative of using all inherently colored fibers and of using inherently colored with non-pigmented fibers as pointed out in the body of the rejections above.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN J. WILSON whose telephone number is (571)272-6266. The examiner works a part-time schedule and can normally be reached on Monday or Thursday from 8 AM to 4:30 PM, or on Friday from 8 AM to 12 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris L. Rodriguez, can be reached on 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/John J Wilson/  
Primary Examiner  
Art Unit 3732**